

**PUBLIC SESSION MINUTES**  
**North Carolina State Board of CPA Examiners**  
**December 20, 2004**  
**1101 Oberlin Road**  
**Raleigh, NC 27605**

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**MEMBERS ATTENDING:** Norwood G. Clark, Jr., CPA, President; Leonard W. Jones, CPA, Vice President; Arthur M. Winstead, Jr., CPA, Secretary-Treasurer; O. Charlie Chewning, Jr., CPA; Thurman L. Gause; Jordan C. Harris, Jr.; and Michael C. Jordan, CPA.

**STAFF ATTENDING:** Robert N. Brooks, Executive Director; J. Michael Barham, CPA, Deputy Director; Lisa R. Hearne, Manager-Communications; Ann J. Hinkle, Manager-Professional Standards; Buck Winslow, Manager-Licensing; and Noel L. Allen, Legal Counsel.

**GUESTS:** James T. Ahler, Executive Director, NCACPA; Tom Chenoweth, CPA, Highland Publishing Company; and Curt Lee, Past President, NCSA.

**CALL TO ORDER:** President Clark called the meeting to order at 10: 02 a.m.

**MINUTES:** The minutes of the November 22, 2004, meeting were approved as submitted.

**FINANCIAL AND BUDGETARY ITEMS:** The financial statements for November 2004 were accepted as submitted.

**NATIONAL ORGANIZATION ITEMS:** Mr. Clark reported on his attendance at the December 2004 AICPA Conference on Current SEC and PCAOB Developments in New York.

**STATE AND LOCAL ORGANIZATION ITEMS:** Messrs. Clark, Barham, and Ahler commented on the work of the NCACPA's Special Task Force on Governmental Audits.

**REPORT OF THE PROFESSIONAL STANDARDS COMMITTEE:** Mr. Jones moved and the Board approved the following recommendations of the Committee:

200404-017 - Jannie Boyd Mills. - Approve the signed Consent Order (Appendix I).

200411-050 - Close the case without prejudice.

**Suspended Certificate** - Pursuant to 21 NCAC 8M .0106 (c), the following licensee's certificates have been suspended for at least thirty (30) days and until the required State Quality Review (SQR) compliance information is received by the Board:

Ronald F. Finger, #9231  
David N. Hemphill, #11778

Thomas R. Sawyer, #27005  
(Appendix II)

**Certificate Renewal Denied** - Pursuant to 21 NCAC 8G .0401(e), William Vaughan Ward's NC CPA certificate renewal has been denied for at least thirty (30) days and until Mr. Ward meets the requirements for reinstatement (Appendix III).

**REPORT OF THE PROFESSIONAL EDUCATION AND APPLICATIONS COMMITTEE:**  
Mr. Harris moved and the Board approved the following recommendations of the Committee:

**Reciprocal Certificate Applications** - The following were approved:

Francis J. Arkfeld  
Michael William Barber  
Brenda R. Chester

Ashlie Noble Holt  
John Patrick Pless  
John Welton Spann, Jr.

**Temporary Permits** - The following temporary permits were approved by the Executive Director and ratified by the Board:

Mark Richard Bourg T03129  
Richard Warren Hartzell T03130  
Hee Jin Kim T03131  
Laurie Ann Lovelady T03132  
Brian Joseph McMerty T03133  
Richard Joseph Puleo T03134  
Jeffrey Neil Rhodes T03135  
Mark Paul Soticheck II T03136  
Karen Spear T03137  
Jason Jeremiah Strange T03138  
Robert Jeffrey Suggs T03139  
Dale Hunter Taylor T03140  
Frank Edward Jenkins Jr. T03141

Ilissa Bernstein T03142  
Elizabeth Leigh Bradburn T03143  
Jeffrey Michael Brinn T03144  
Paul Christian Brown T03145  
Steven Lewis Cooper T03146  
Lacy M. Drummond T03147  
Haoyu Gan T03148  
Patricia Diane Gaunt T03149  
Derric A. Gregory Sr. T03150  
James Henry Lombardi T03151  
Cecilia Tudor Rose T03152  
Misty Jenkins Saldi T03153  
Regina Wahab T03154

**Reinstatements** - The reinstatement application submitted by Robert Kevin White (#19548) was approved.

**Firm Registrations** - The following professional corporations, professional limited liability companies, and limited liability partnerships were approved by the Executive Director and ratified by the Board:

Darci L. Bly, CPA, P.A.  
TASHA HELMS, CPA, PC  
Johnson & Vaughn, CPAs, PLLC  
Randy S. McIntyre, CPA, P.C.  
MURPHY & ASSOCIATES, CPA's, PLLC  
M. Stan Paradis CPA, PC  
Sledge and Company Certified Public Accountants and Consultants, PLLC

## CPE Matters

Staff has received information from Daniel Aaron Leder (#30304). He indicated on his 2004-2005 renewal that he failed to complete the 2003 CPE by 12/31/03 but did complete it by 6/30/04. However he failed to complete the minimum CPE requirement by 6/30/04. Staff recommended referral to the Professional Standards Committee. The Committee approved staff recommendation.

Ethics Course - Staff has received ethics courses from the NCACPA and Rockness Education Services to qualify for the two-hour group study format requirement; Rockness has also submitted a CPE sponsor application. Staff reviewed and recommended approval. The Committee approved staff recommendation.

**Examinations** - The Committee reviewed and approved the following staff approved applicants to sit for the Uniform CPA Examination:

Christina Everette Abbott  
Russell Glenn Allen  
Stephanie Hales Baumgartner  
Paulina D. Bolton  
Tammie Marie Bowers  
Melvin Donnel Brown  
Robert Melvin Callahan  
Jeffrey Gene Campbell  
Lori Elizabeth Cline  
Desiree Urania Crecelius  
Nathan Dore Edgerly  
Michael Antonio Jose Figuera  
Latonya Nicole Ford  
Kendra Ward Gillespie  
Kimberly Ann Girdwood  
Drew Michael Goodson  
Martin Christopher Haley

Amy Sanders Hendren  
Thomas Alan Henrikson Jr  
Tina Renee Honeycutt  
Natalie Lane Huffman  
Garrett Smith Jernigan  
Whitney Morrell Lee  
Kevin Michael Leonard  
Lovette White Love  
Margaret Katharine MacNeill  
Merald Bess Manigault  
Brian John Mascia  
Julie Elizabeth Morgan  
Oanh Kim Nguyen  
Karishma Arun Patel  
Adrian George Pharo  
Kelly Gray Reed  
Amy Annette Rydzy

**Rescind Form of Practice Statements** -Christine Stanley Greene (#20999) signed a Form of Practice Statement due to her employment. However, due to a change in the licensee's employment, staff recommended that the statement be rescinded. The Committee approved staff recommendation.

**PUBLIC HEARING:** President Clark moved to convene the Public Hearing scheduled to hear Case No. 200405-020, Johnny Lee Blackwell. Neither Mr. Blackwell nor his representative was present at the Public Hearing. Mr. Brooks was sworn in and provided testimony. Messrs. Jones and Winstead moved to approve a Board Order permanently revoking the NC CPA certificate

issued to Johnny Lee Blackwell. Motion passed with seven (7) affirmative and zero (0) negative votes. The entire Public Hearing is a matter of public record (Appendix IV).

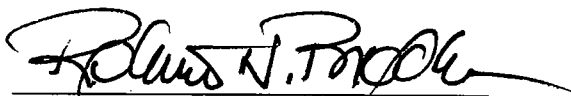
**PUBLIC HEARING:** President Clark moved to convene the Public Hearing scheduled to hear Case No. 200401-001, Marvin Harold Witherspoon. Neither Mr. Witherspoon nor his representative was present at the Public Hearing. Mr. Brooks was sworn in and provided testimony. Messrs. Jones and Gause moved to approve a Board Order permanently revoking the NC CPA certificate issued to Marvin Harold Witherspoon. Motion passed with seven (7) affirmative and zero (0) negative votes. The entire Public Hearing is a matter of public record (Appendix V).

**EXECUTIVE STAFF AND LEGAL COUNSEL REPORT:** Messrs. Jones and Winstead moved to approve the Executive Staff's recommendation of GL Suite software to replace the Board's current AMS software. Motion passed.

**ADJOURNMENT:** Messrs. Jordan and Harris moved to adjourn the meeting at 12: 02 p.m. Motion passed.

Respectfully submitted:

Attested to by:



Robert N. Brooks  
Executive Director



Norwood G. Clark, Jr., CPA  
President

NORTH CAROLINA  
WAKE COUNTY

BEFORE THE NORTH CAROLINA STATE BOARD OF  
CERTIFIED PUBLIC ACCOUNTANT EXAMINERS  
CASE #: 200404-017

IN THE MATTER OF:  
Jannie Boyd Mills, #22192  
Respondent

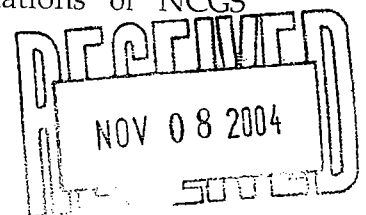
CONSENT ORDER

THIS CAUSE, coming before the Board at its offices at 1101 Oberlin Road, Raleigh, Wake County, North Carolina, with a quorum present. Pursuant to NCGS 150B-41, the Board and Respondent stipulate the following Findings:

1. Respondent is the holder of North Carolina certificate number 22192 as a Certified Public Accountant.
2. In response to a client's request for the return of client records, Respondent failed and refused to return said client's records upon demand.
3. Respondent informed the client that Respondent would not return the client's records until the client paid all outstanding fees.
4. In responding to Board correspondence, despite applicable rules, Respondent stated that it was her policy not to return client records upon demand until all outstanding fees have been paid.
5. Respondent wishes to resolve this matter by consent and agrees that the Board staff and counsel may discuss this Order with the Board *ex parte*, whether or not the Board accepts this Order as written.

BASED upon the foregoing, the Board makes the following Conclusions of Law:

1. Respondent is subject to the provisions of Chapter 93 of the North Carolina General Statutes (NCGS) and Title 21, Chapter 8 of the North Carolina Administrative Code (NCAC), including the Rules of Professional Ethics and Conduct promulgated and adopted therein by the Board.
2. Respondent's actions as set out above constitute violations of NCGS 93-12 (9)e and 21 NCAC 8N .0305 (c).




Consent Order - 2  
Jannie Boyd Mills

BASED on the foregoing and in lieu of further proceedings under 21 NCAC Chapter 8C, the Board and Respondent agree to the following Order:

1. Respondent is censured.
2. Respondent shall pay a three hundred dollar (\$300.00) civil penalty to be remitted with this signed Consent Order.
3. Within one hundred eighty (180) days of the date this Order is approved by the Board, Respondent must complete and provide verification of her completion of the Ethics Principles and Professional Responsibilities course as offered by the North Carolina Association of Certified Public Accountants. Said course may not be used to meet Respondent's annual forty (40) hour continuing professional education requirement.


CONSENTED TO THIS THE 19 DAY OF November, 2004.

  
Respondent

APPROVED BY THE BOARD THIS THE 20 DAY OF December, 2004.

NORTH CAROLINA STATE BOARD OF CERTIFIED  
PUBLIC ACCOUNTANT EXAMINERS

BOARD  
SEAL

BY:   
President

NORTH CAROLINA  
WAKE COUNTY

BEFORE THE NORTH CAROLINA STATE BOARD OF  
CERTIFIED PUBLIC ACCOUNTANT EXAMINERS  
CASE #: 200412-051

IN THE MATTER OF:  
Ronald F. Finger, #9231

ORDER

THIS CAUSE coming before the Board on December 20, 2004, at its offices at 1101 Oberlin Road, Raleigh, Wake County, North Carolina, with a quorum present, the Board finds, based on the clear and convincing evidence presented, that:

FINDINGS OF FACT

1. Ronald F. Finger (hereinafter "Mr. Finger") is the holder of a certificate as a Certified Public Accountant in North Carolina and is therefore subject to the provisions of Chapter 93 of the North Carolina General Statutes (NCGS) and Title 21, Chapter 8 of the North Carolina Administrative Code (NCAC), including the Rules of Professional Ethics and Conduct promulgated and adopted therein by the Board.
2. Mr. Finger failed to timely obtain a State Quality Review (SQR) in accordance with provisions as required by NCGS 93-12 (8c) and 21 NCAC 8M.0102.
3. Mr. Finger has subsequently failed to provide documentation to the Board that his SQR has been completed and is in excess of 120 days from the required completion date.

CONCLUSIONS OF LAW

1. Mr. Finger's failure to timely obtain a SQR prior to the prescribed completion date is a violation of NCGS 93-12 (8c) and 21 NCAC 8M.0102.

BASED ON THE FOREGOING, the Board orders that:

1. Mr. Finger's certificate is suspended for at least thirty (30) days from the date this Order is approved and until the required SQR compliance information is received by the Board.
2. If Mr. Finger fails to return his suspended certificate within fifteen (15) days of the receipt of this Order, the thirty (30) day suspension will be extended by the number of days that his certificate is late in being returned to the Board.

Board Order - 2  
Ronald F. Finger

3. If Mr. Finger returns his suspended certificate within fifteen (15) days of the receipt of this Order, Mr. Finger can, after at least thirty (30) days, and the completion of his firm's SQR, apply to return his certificate to active status by submission and approval of a reissuance application which includes:
  - a. Application form,
  - b. Payment of the application fee,
  - c. 3 moral character affidavits, and
  - d. 40 hours of CPE in the 12 months preceding the application including an 8 hour accountancy law course pursuant to 21 NCAC 8F .0504.
  
4. If Mr. Finger returns his suspended certificate in excess of fifteen (15) days of the receipt of this Order, Mr. Finger can, after thirty (30) days plus the number of days that his certificate was late in being returned to the Board, and the completion of his firm's SQR, apply to return his certificate to active status by submission and approval of a reissuance application which includes:
  - a. Application form (which includes statements regarding use of title during forfeiture),
  - b. Payment of the application fee,
  - c. 3 moral character affidavits (on forms provided by Board),
  - d. 40 hours of CPE in the 12 months preceding the application including an 8 hour accountancy law course pursuant to 21 NCAC 8F .0504, and
  - e. Consent Order requiring payment of at least \$100.00 in administrative costs.

This the 20th day of December 2004.

NORTH CAROLINA STATE BOARD OF CERTIFIED  
PUBLIC ACCOUNTANT EXAMINERS

BOARD  
SEAL

BY: Woodward B. Clark Jr.  
President



NORTH CAROLINA  
WAKE COUNTY

BEFORE THE NORTH CAROLINA STATE BOARD OF  
CERTIFIED PUBLIC ACCOUNTANT EXAMINERS  
CASE #: 200412-052

IN THE MATTER OF:  
David N. Hemphill, #11778

ORDER

THIS CAUSE coming before the Board on December 20, 2004, at its offices at 1101 Oberlin Road, Raleigh, Wake County, North Carolina, with a quorum present, the Board finds, based on the clear and convincing evidence presented, that:

FINDINGS OF FACT

1. David N. Hemphill (hereinafter "Mr. Hemphill") is the holder of a certificate as a Certified Public Accountant in North Carolina and is therefore subject to the provisions of Chapter 93 of the North Carolina General Statutes (NCGS) and Title 21, Chapter 8 of the North Carolina Administrative Code (NCAC), including the Rules of Professional Ethics and Conduct promulgated and adopted therein by the Board.
2. Mr. Hemphill failed to timely obtain a State Quality Review (SQR) in accordance with provisions as required by NCGS 93-12 (8c) and 21 NCAC 8M.0102.
3. Mr. Hemphill has subsequently failed to provide documentation to the Board that his SQR has been completed and is in excess of 120 days from the required completion date.

CONCLUSIONS OF LAW

1. Mr. Hemphill's failure to timely obtain a SQR prior to the prescribed completion date is a violation of NCGS 93-12 (8c) and 21 NCAC 8M.0102.

BASED ON THE FOREGOING, the Board orders that:

1. Mr. Hemphill's certificate is suspended for at least thirty (30) days from the date this Order is approved and until the required SQR compliance information is received by the Board.
2. If Mr. Hemphill fails to return his suspended certificate within fifteen (15) days of the receipt of this Order, the thirty (30) day suspension will be extended by the number of days that his certificate is late in being returned to the Board.

Board Order - 2  
David N. Hemphill

3. If Mr. Hemphill returns his suspended certificate within fifteen (15) days of the receipt of this Order, Mr. Hemphill can, after at least thirty (30) days, and the completion of his firm's SQR, apply to return his certificate to active status by submission and approval of a reissuance application which includes:
  - a. Application form,
  - b. Payment of the application fee,
  - c. 3 moral character affidavits, and
  - d. 40 hours of CPE in the 12 months preceding the application including an 8 hour accountancy law course pursuant to 21 NCAC 8F .0504.
4. If Mr. Hemphill returns his suspended certificate in excess of fifteen (15) days of the receipt of this Order, Mr. Hemphill can, after thirty (30) days plus the number of days that his certificate was late in being returned to the Board, and the completion of his firm's SQR, apply to return his certificate to active status by submission and approval of a reissuance application which includes:
  - a. Application form (which includes statements regarding use of title during forfeiture),
  - b. Payment of the application fee,
  - c. 3 moral character affidavits (on forms provided by Board),
  - d. 40 hours of CPE in the 12 months preceding the application including an 8 hour accountancy law course pursuant to 21 NCAC 8F .0504, and
  - e. Consent Order requiring payment of at least \$100.00 in administrative costs.

This the 20th day of December 2004.

NORTH CAROLINA STATE BOARD OF CERTIFIED  
PUBLIC ACCOUNTANT EXAMINERS

BOARD  
SEAL

BY: Howard B. Clark Jr.  
President

NORTH CAROLINA  
WAKE COUNTY

BEFORE THE NORTH CAROLINA STATE BOARD OF  
CERTIFIED PUBLIC ACCOUNTANT EXAMINERS  
CASE #: 200412-053

IN THE MATTER OF:  
Thomas R. Sawyer, #27005

ORDER

THIS CAUSE coming before the Board on December 20, 2004, at its offices at 1101 Oberlin Road, Raleigh, Wake County, North Carolina, with a quorum present, the Board finds, based on the clear and convincing evidence presented, that:

FINDINGS OF FACT

1. Thomas R. Sawyer (hereinafter "Mr. Sawyer") is the holder of a certificate as a Certified Public Accountant in North Carolina and is therefore subject to the provisions of Chapter 93 of the North Carolina General Statutes (NCGS) and Title 21, Chapter 8 of the North Carolina Administrative Code (NCAC), including the Rules of Professional Ethics and Conduct promulgated and adopted therein by the Board.
2. Mr. Sawyer failed to timely obtain a State Quality Review (SQR) in accordance with provisions as required by NCGS 93-12 (8c) and 21 NCAC 8M. 0102.
3. Mr. Sawyer has subsequently failed to provide documentation to the Board that his SQR has been completed and is in excess of 120 days from the required completion date.

CONCLUSIONS OF LAW

1. Mr. Sawyer's failure to timely obtain a SQR prior to the prescribed completion date is a violation of NCGS 93-12 (8c) and 21 NCAC 8M .0102.

BASED ON THE FOREGOING, the Board orders that:

1. Mr. Sawyer's certificate is suspended for at least thirty (30) days from the date this Order is approved and until the required SQR compliance information is received by the Board.
2. If Mr. Sawyer fails to return his suspended certificate within fifteen (15) days of the receipt of this Order, the thirty (30) day suspension will be extended by the number of days that his certificate is late in being returned to the Board.

Board Order - 2  
Thomas R. Sawyer

3. If Mr. Sawyer returns his suspended certificate within fifteen (15) days of the receipt of this Order, Mr. Sawyer can, after at least thirty (30) days, and the completion of his firm's SQR, apply to return his certificate to active status by submission and approval of a reissuance application which includes:
  - a. Application form,
  - b. Payment of the application fee,
  - c. 3 moral character affidavits, and
  - d. 40 hours of CPE in the 12 months preceding the application including an 8 hour accountancy law course pursuant to 21 NCAC 8F .0504.
4. If Mr. Sawyer returns his suspended certificate in excess of fifteen (15) days of the receipt of this Order, Mr. Sawyer can, after thirty (30) days plus the number of days that his certificate was late in being returned to the Board, and the completion of his firm's SQR, apply to return his certificate to active status by submission and approval of a reissuance application which includes:
  - a. Application form (which includes statements regarding use of title during forfeiture),
  - b. Payment of the application fee,
  - c. 3 moral character affidavits (on forms provided by Board),
  - d. 40 hours of CPE in the 12 months preceding the application including an 8 hour accountancy law course pursuant to 21 NCAC 8F .0504, and
  - e. Consent Order requiring payment of at least \$100.00 in administrative costs.

This the 20th day of December 2004.

NORTH CAROLINA STATE BOARD OF CERTIFIED  
PUBLIC ACCOUNTANT EXAMINERS

BOARD  
SEAL

BY: \_\_\_\_\_  
President

*Howard B. Clark Jr.*

NORTH CAROLINA  
WAKE COUNTY

BEFORE THE NORTH CAROLINA STATE BOARD OF  
CERTIFIED PUBLIC ACCOUNTANT EXAMINERS  
CASE #: 200412-054

IN THE MATTER OF:  
William Vaughn Ward, #25737

ORDER

THIS CAUSE coming before the Board on December 20, 2004, at its offices at 1101 Oberlin Road, Raleigh, Wake County, North Carolina, with a quorum present, the Board finds, based on the clear and convincing evidence presented, that:

FINDINGS OF FACT

1. William Vaughn Ward (hereinafter "Mr. Ward") is the holder of a certificate as a Certified Public Accountant in North Carolina and is therefore subject to the provisions of Chapter 93 of the North Carolina General Statutes (NCGS) and Title 21, Chapter 8 of the North Carolina Administrative Code (NCAC), including the Rules of Professional Ethics and Conduct promulgated and adopted therein by the Board.
2. Mr. Ward's certificate was placed on conditional status in September of 2001 for failure to complete the Continuing Professional Education (CPE) requirements for 2000.
3. Mr. Ward's certificate was again placed on conditional status and he was fined a \$100.00 civil penalty in October of 2002 for a second failure within a five (5) year period to complete the CPE requirements for 2001.
4. Mr. Ward failed to timely obtain CPE for 2003 in accordance with provisions as required by NCGS 93-12 (8b) and 21 NCAC 8G .0401(e).
5. Mr. Ward subsequently notified the Board that his CPE was completed after the applicable deadline but before July 1, 2004.

CONCLUSIONS OF LAW

1. Mr. Ward's third failure within a five (5) calendar year period to timely obtain the required CPE is a violation of NCGS 93-12 (8b) and 21 NCAC 8G .0401(e).

BASED ON THE FOREGOING, the Board orders that:

1. The renewal of Mr. Ward's certificate is denied for at least thirty (30) days and until Mr. Ward meets the reinstatement requirements as set forth in 21 NCAC 8J .0106. Mr. Ward must return his forfeited certificate to the Board within fifteen (15) days of the receipt of this Order.

Board Order - 2  
William Vaughn Ward

2. If Mr. Ward fails to return his forfeited certificate within fifteen (15) days of the receipt of this Order, the thirty (30) days noted in requirement #1 will be extended by the number of days that his certificate is late in being returned to the Board.
3. If Mr. Ward returns his forfeited certificate within fifteen (15) days of the receipt of this Order, Mr. Ward can, after at least thirty (30) days, apply to return his certificate to active status by submission and approval of a reinstatement application which includes:
  - a. Application form,
  - b. Payment of the application fee,
  - c. 3 moral character affidavits, and
  - d. 40 hours of CPE in the 12 months preceding the application including an 8 hour accountancy law course pursuant to 21 NCAC 8F .0504.
4. If Mr. Ward returns his forfeited certificate in excess of fifteen (15) days of the receipt of this Order, Mr. Ward can, after thirty (30) days plus the number of days that his certificate was late in being returned to the Board, apply to return his certificate to active status by submission and approval of a reinstatement application which includes:
  - a. Application form (which includes statements regarding use of title during forfeiture),
  - b. Payment of the application fee,
  - c. 3 moral character affidavits (on forms provided by Board),
  - d. 40 hours of CPE in the 12 months preceding the application including an 8 hour accountancy law course pursuant to 21 NCAC 8F .0504.
  - e. a Consent Order requiring payment of a \$100.00 civil penalty.

This the 20th day of December 2004.

BOARD  
SEAL

NORTH CAROLINA STATE BOARD OF CERTIFIED  
PUBLIC ACCOUNTANT EXAMINERS

BY: Samuel D Clark Jr.  
President

NORTH CAROLINA  
WAKE COUNTY

BEFORE THE NORTH CAROLINA STATE BOARD OF  
CERTIFIED PUBLIC ACCOUNTANT EXAMINERS  
CASE #: 200405-020

IN THE MATTER OF:

Johnny Lee Blackwell, #14659

J. L. Blackwell, CPA

Respondents

BOARD ORDER

THIS CAUSE coming before the Board at its offices at 1101 Oberlin Road, Raleigh, Wake County, North Carolina, at public hearing, with a quorum present, the Board finds, based on the evidence presented at the hearing on December 20, 2004, that:

FINDINGS OF FACT

1. The parties have been properly identified.
2. The Board has jurisdiction over Respondents and this matter.
3. Respondent received at least fifteen (15) days written Notice of Hearing of this Matter by personal service, certified mail, or other approved personal delivery.
4. Venue is proper and the Notice Hearing was properly held at 1101 Oberlin Road, Raleigh, North Carolina.
5. Respondents had no objection to any Board Member's participation in the Hearing of this Matter.
6. Respondents were not present at the Hearing and were not represented by counsel.
7. Respondent Johnny Lee Blackwell (hereinafter "Respondent Blackwell") is the holder of a certificate as a Certified Public Accountant in North Carolina.
8. Respondent J. L. Blackwell, CPA (hereafter "Respondent firm"), is a licensed certified public accounting firm in North Carolina. Respondent

firm is an individual practitioner firm owned and operated by Respondent Blackwell.

9. Respondent Blackwell and Respondent firm are therefore subject to the provisions of Chapter 93 of the North Carolina General Statutes (NCGS) and Title 21, Chapter 8 of the North Carolina Administrative Code (NCAC), including the Rules of Professional Ethics and Conduct promulgated and adopted therein by the Board.
10. In May of 2004, pursuant to a plea agreement, Respondent Blackwell entered guilty pleas to three (3) misdemeanor counts of willfully failing to file his North Carolina individual income tax returns for 2000, 2001, and 2002. Respondent Blackwell was thereupon convicted and sentenced to forty-five (45) days in custody, which sentence was suspended, and he was placed on eighteen (18) months of supervised probation. In addition, Respondent Blackwell was required to perform fifty (50) hours of community service, to pay a five hundred dollar (\$500.00) fine, to pay one thousand eight hundred twenty dollars (\$1,820.00) in restitution, and to pay the costs of court.
11. Respondent Blackwell failed to timely pay his federal individual tax returns for at least the tax years 2000, 2001, and 2002.
12. Respondent Blackwell and Respondent firm failed to timely file and/or pay Respondent firm's 941s for at least three (3) quarters in 1997, one quarter in 1998, and all quarters in the years 2000, 2001, 2002, and 2003.
13. Respondent Blackwell currently has repayment plans for the 941s and for both state and federal tax returns including interest and penalties.

#### CONCLUSIONS OF LAW

1. Respondent Blackwell's criminal convictions as set out above constitute violations of NCGS 93-12 (9) e and 21 NCAC 8N .0201, .0202 (a), .0203 (b)(1), .0204 (c), and .0207.
2. Respondent Blackwell's failures to ensure that Respondent firm's 941s were timely filed and/or paid are violations of NCGS 93-12 (9)e and 21 NCAC 8N .0201, .0202, .0203, .0207.



Board Order - 3  
Johnny Lee Blackwell

BASED ON THE FOREGOING, the Board orders in a vote of 7 to 0 that:

1. The Certified Public Accountant certificate issued to Respondent, Johnny Lee Blackwell, is hereby permanently revoked.

This the 20<sup>th</sup> day of December, 2004.

NORTH CAROLINA STATE BOARD OF CERTIFIED  
PUBLIC ACCOUNTANT EXAMINERS

BOARD  
SEAL

BY: Norman S. Clark Jr.  
President

NORTH CAROLINA  
WAKE COUNTY

BEFORE THE NORTH CAROLINA STATE BOARD OF  
CERTIFIED PUBLIC ACCOUNTANT EXAMINERS  
CASE #: 200401-001

IN THE MATTER OF:  
Marvin Harold Witherspoon, #2223  
M. Harold Witherspoon, CPA  
Respondent

BOARD ORDER

THIS CAUSE coming before the Board at its offices at 1101 Oberlin Road, Raleigh, Wake County, North Carolina, at public hearing, with a quorum present, the Board finds, based on the evidence presented at the hearing on December 20, 2004, that:

FINDINGS OF FACT

1. The parties have been properly identified.
2. The Board has jurisdiction over Respondents and this matter.
3. Respondents received at least fifteen (15) days written Notice of Hearing of this Matter by personal service, certified mail, or other approved personal delivery.
4. Venue is proper and the Notice Hearing was properly held at 1101 Oberlin Road, Raleigh, North Carolina.
5. Respondents had no objection to any Board Member's participation in the Hearing of this Matter.
6. Respondents were not present at the Hearing and were not represented by counsel.
7. Respondent Marvin Harold Witherspoon (hereinafter "Respondent Witherspoon") was the holder of a certificate as a Certified Public Accountant in North Carolina. Said certificate was revoked on August 23, 2004, under Emergency Order For Revocation.
8. Respondent M. Harold Witherspoon (hereinafter "Respondent firm") was a licensed certified public accounting firm in North Carolina. Respondent Witherspoon is sole owner of Respondent firm.

Board Order - 2  
Marvin Harold Witherspoon

9. Respondent Witherspoon and Respondent firm are therefore subject to the provisions of Chapter 93 of the North Carolina General Statutes (NCGS) and Title 21, Chapter 8 of the North Carolina Administrative Code (NCAC), including the Rules of Professional Ethics and Conduct promulgated and adopted therein by the Board. and is therefore subject to the provisions of Chapter 93 of the North Carolina General Statutes (NCGS) and Title 21, Chapter 8 of the North Carolina Administrative Code (NCAC), including the Rules of Professional Ethics and Conduct promulgated and adopted therein by the Board.
10. In November of 2003, Respondent Witherspoon was arrested on state charges of four (4) counts of first-degree sexual exploitation of a minor and with five (5) counts of second-degree sexual exploitation.
11. Respondent Witherspoon was released on the state charges under a one hundred thousand dollar (\$100,000.00) bond.
12. On January 20, 2004, Respondent Witherspoon was arrested on federal charges and was subsequently indicted by a federal Grand Jury on January 30, 2004, for violations of 18 U.S.C. §2, 2251, 2252, 2252A, generally pertaining to the alleged sexual exploitation of children and the transportation or distribution of child pornography.
13. On June 29, 2004, the federal Grand Jury issued a Superseding Bill of Indictment, further charging, in Count 2, that the Respondent Witherspoon "...did knowingly and willfully employ, use, persuade, induce, entice, or coerce a person under the age of eighteen to engage in sexually explicit conduct, ... for the purpose of producing visual depictions of such conduct, specifically a video tape entitled 'Marvin and friends', such visual depictions having actually been produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce..." as well as ten (10) other related charges.
14. From January 20, 2004, through the date of this Order, Respondent Witherspoon has been continuously held in federal custody.
15. Respondent Witherspoon failed to timely disclose to the Board those federal charges pending against Respondent Witherspoon or the fact of Respondent Witherspoon's incarceration.
16. Despite Respondent Witherspoon's incarceration and despite the absence of active and local supervision by a CPA, Respondent firm has continued

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Marvin Harold Witherspoon

to offer and provide public accountancy services, including attest services as defined by 21 NCAC 8A .0301 (b)(5), to clients as a CPA firm.

17. On September 13, 2004, Respondent Witherspoon signed a plea agreement pleading guilty to Count 2 of the federal charges contained in the January 29, 2004, Superseding Bill of Indictment.

CONCLUSIONS OF LAW

1. Respondent's conduct as set out above constitutes violations of NCGS 93-12 (9)e and 21 NCAC 8N .0201, 8N .0203 (a), and 8N .0203 (b)(1).

BASED ON THE FOREGOING, the Board orders in a vote of 7 to 0 that:

1. The Certified Public Accountant certificate issued to Respondent, Marvin Harold Witherspoon, is hereby permanently revoked.

This the 20<sup>th</sup> day of December, 2004.

NORTH CAROLINA STATE BOARD OF CERTIFIED  
PUBLIC ACCOUNTANT EXAMINERS

BOARD  
SEAL

BY:  
President

General B Clark Jr.